

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JAMES WATSON,	:	
	:	
Petitioner	:	CIVIL NO. 4:09-CV-2321
	:	
v.	:	Hon. John E. Jones III
	:	
COMMONWEALTH OF	:	
PENNSYLVANIA, <i>et al.</i> ,	:	
	:	
Respondents	:	

MEMORANDUM

March 2, 2010

THE BACKGROUND OF THIS MEMORANDUM IS AS FOLLOWS:

Petitioner James Watson (“Petitioner” or “Watson”), an inmate presently confined at the Albion State Correctional Institution (“SCI-Albion”) in Albion, Pennsylvania, commenced this *pro se* action by filing a Petition for Writ of Habeas Corpus pursuant to the provisions of 28 U.S.C. § 2254.

In accordance with *United States v. Miller*, 197 F.3d 644 (3d Cir. 1999), and *Mason v. Meyers*, 208 F.3d 414 (3d Cir. 2000), on February 22, 2010, the Court issued a formal notice to Watson that he could either have his Petition ruled on as filed, or withdraw his Petition and file one all-inclusive § 2254 petition within the

one-year statutory period prescribed by the Antiterrorism and Effective Death Penalty Act (“AEDPA”). (Doc. 4.)

On March 1, 2010, Watson filed a Notice of Election indicating that he chooses to withdraw his Petition as filed so that he may file one, all-inclusive petition under 28 U.S.C. § 2254 within the one-year limit for filing such a petition. (*See Doc. 5.*) This Court’s February 22, 2010 Order stated that “[i]f Petitioner decides to file an all-inclusive § 2254 petition raising all grounds for relief, Petitioner’s Notice of Election form must also be accompanied by his new § 2254 petition. If the new § 2254 petition does not accompany the Notice of Election, the Court will dismiss this case without prejudice.” (*See Doc. 4 ¶ 3.*) Because a new § 2254 petition did not accompany Watson’s Notice of Election, his Motion for leave to proceed *in forma pauperis* (Doc. 3) will be granted for the sole purpose of filing the Petition, and the Petition (Doc. 1) will be dismissed without prejudice. An appropriate Order will enter.